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JAN 25 2007

Attorney Docket Number: FSP0042
Title: ROTATING BARRIER FOR JET MASSAGE
Application Number: 10/773,764

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REMARKS

In an office action mailed on 09/28/2006, claims 1-8, 14, and 17 are rejected under 35 USC 112 as being indefinite; claims 1,5,9,13-14 and 16-17 are rejected under 35 USC 102(b) as anticipated by Licht, US 6428466; claims 15 and 18 are rejected under 35 USC 103(a) as unpatentable over Licht in view of Mutzell, US 4853988.

Licht Does Not Teach A Rotating Barrier

Claims 1, 5, and 9 recite, inter alia, a barrier enclosing water jets and coupled to rotate in relation to a carriage to which the barrier is coupled.

No such rotating barrier is taught in Licht. The water barrier of Licht is translated along the table without rotation.

Licht Does Not Teach An Open Table

Claims 13 and 16 recite, inter alia, an open table over which the barrier is mounted. The rejection, at 15, incorrectly states that Licht shows an open table. The table of Licht is enclosed by a lid. The rejection incorrectly states that Fig. 2 of Licht shows an open table. Fig. 2 of Licht is a partial exterior view, with the lid removed to better illustrate the interior components. In fact, even with the lid removed, the table is not open. Even with the lid removed, various hardware such as 33, 34, 40, and the framing arch (un-numbered) all partially enclose the table. Regardless, it is incorrect to state that Licht teaches an open table, when a lid is taught throughout the specification, drawings, and claims as an integral and essential component of the device (a 'capsule').

No Motivation to Combine Licht with Mutzell

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Mutzell teaches a fixed barrier and a jet translated below the barrier. Licht teaches a moving barrier over the table, with the jets inside. Contrary to what the rejection asserts, there is nothing similar about the two devices; they describe fundamentally different approaches to placement of the jets and barriers.

The rejection cites a motivation to combine these references that does not take into account the full nature of the Mutzell translation system. Clearly, employing the translation system of Mutzell with the water carriage of Licht would still require an over-the-table guide for the water carriage. (see Mutzell, Fig. 3, the under-carriage motion of the jet is projected over the table by horizontal guide 16). Licht already employs an over-the-table guide. There would be no motivation to employ the system of Mutzell in Licht because it would merely add complexity, weight, and cost, without removing the need for an over-the-table guide.

Conclusion

In view of the above amendments and remarks, applicant believes that this application is now in condition for allowance. Applicant respectfully requests that a Notice of Allowability be issued covering the pending claims. If the Examiner believes that a telephone interview would in any way advance prosecution of the present application, please contact the undersigned.

Signature /Charles A. Mirho/ Date: 1/23/2007
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